

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Richard John Ichihara,

Plaintiff,

v.

Dennis Smith, et al.,

Defendants.

No. CV-13-01200-PHX-ROS

ORDER

On March 30, 2015, Plaintiff filed a motion to dismiss requesting dismissal of his claims against all defendants except for Carl David Evans. (Doc. 79). On April 16, 2015, the Court directed Plaintiff to indicate “whether he seeks to dismiss Defendant Evans or whether he seeks to proceed with his claims against Evans.” (Doc. 83 at 7). The Court warned Plaintiff that if he failed to do so, Defendant Evans would be dismissed.

On May 1, 2015, Plaintiff filed a document allegedly responding to an earlier motion seeking to transfer related cases to this Court. In that document, Plaintiff stated the motion to transfer was “not appropriate” because he had “submitted a motion to dismiss” the case. Plaintiff’s filing does not explicitly address the status of Defendant Evans. However, in context, Plaintiff’s filing indicates the motion to transfer should be denied because he had requested dismissal of the entire case. Based on Plaintiff’s statement, or alternatively his failure to explicitly respond to the Court’s April 16, 2015

1 Order, Defendant Evans will be dismissed. Because Defendant Evans was the only
2 remaining defendant, the entire case will now be dismissed.

3 Accordingly,


4 **IT IS ORDERED** Defendant Carl David Evans is **DISMISSED** and the Clerk of
5 Court is directed to enter a judgment in favor of Defendant Evans and close this case.

6 **IT IS FURTHER ORDERED** the Motion to Strike (Doc. 66) and Motion to
7 Transfer (Doc. 76) are **DENIED AS MOOT**.

8 **IT IS FURTHER ORDERED** the Report and Recommendation (Doc. 77) is
9 rejected as moot.

10 Dated this 1st day of June, 2015.

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Honorable Roslyn O. Silver
Senior United States District Judge